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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,336	12/01/2003	David J. Zahniser	11.015011 CON	5486

41696 7590 06/01/2007
VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

EXAMINER

STOCK JR, GORDON J

ART UNIT	PAPER NUMBER
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2877

MAIL DATE	DELIVERY MODE
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06/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No.	Applicant(s)	
	10/726,336	ZAHNISER ET AL.	
	Examiner	Art Unit	
	Gordon J. Stock	2877	

All participants (applicant, applicant's representative, PTO personnel):

(1) Gordon J. Stock. (3) _____.

(2) Attorney David Burse. (4) _____.

Date of Interview: 25 May 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 16-25, 28 and 37.

Identification of prior art discussed: Miller (US 6,373,568).

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Please see attached PTOL-413A and Summary of Points for Discussion. Examiner agreed that Fig. 2 of Miller did not teach of claim 16 and claim 37 'without the light passing through a bandwidth filter,' for Miller discloses passing through a slit as well as a lens of a filter unit (Fig. 2: 32, 33). The Examiner has agreed to withdraw finality of the previous action and will mail a new office action because the Examiner is withdrawing the previous rejection of claims 16-25, 28 and 37 under 35 U.S.C. 103(a) in regards to US 6,373,568 (see action: 20070219) and because upon further search references, US 5,309,277 to Deck and US 4,852,985 to Fujihara et al., appear to read on claims 16-25, 28, and 37.

PTOL-413A (09-04)
Approved for use through 07/31/2006, OMB 0851-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 10/726,336 First Named Applicant: David J. Zahniser
Examiner: G. Stock, Jr. Art Unit: 2877 Status of Application: pending

Tentative Participants:

(1) Gordon Stock, Jr.

(2) David T. Burse

(3) _____

(4) _____

Proposed Date of Interview: 5/25/07 Proposed Time: 3 (AM ☐ / PM ☒)

Type of Interview Requested:

(1) ☒ Telephonic

(2) ☐ Personal

(3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej.</u>	<u>16-25, 28, 37</u>	<u>6,373,568</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

Brief Description of Arguments to be Presented:

See attached paper from applicant submitted herewith on 5/25/07.

An interview was conducted on the above-identified application on 5/25/07

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

David T. Burse
Applicant/Applicant's Representative Signature

Gordon Stock, Jr.
Examiner/SPE Signature

David T. Burse

Typed/Printed Name of Applicant or Representative

37.104

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Attorney Docket (11.015011 CON)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:)	
)	
David J. Zahniser, et al)	Group Art Unit: 2877
)	
Serial No.: 10/726,336)	Confirmation No.: 5486
)	
Filed: December 1, 2003)	Examiner: Gordon J. Stock, Jr.
)	
For: CYTOLOGICAL IMAGING SYSTEM)	
AND METHOD)	

REQUEST FOR INTERVIEW; SUMMARY OF POINTS FOR DISCUSSION

To: Examiner Gordon J. Stock

Via Fax 571-273-2431

Dear Examiner Stock:

Thank you for agreeing to a telephonic interview at 3:00 pm EDT on May 25, 2007, to discuss the pending (final) rejection of claims 16-25, 28 and 37 under 35 U.S.C. 102(e) over USP 6,373,568 ("Miller").

At column 4, beginning at line 43, Miller states, "[l]enses collimate the light from each LED and bandpass filters provide spectral filtration of the various bands so that the light in each band has a very well-defined spectral range with much greater specificity than that defined by the LEDs themselves." The drawings and description of Miller focus on the use of discrete (epoxy encapsulated) LEDs, which are inherently a few millimeters (typically 5) in diameter. The light from these LEDs *must pass through a filter* in order to obtain the required narrow band wavelength. For example, as seen in the cited Fig. 2 of Miller, a grating (31) is used to reflect and spread out the light band of the light, which is then more finely filtered through the slit 33 (See col. 4, lines 53-61; Fig. 2).

Similarly, USP 5,029,245 (Keranen), referenced in Miller (col. 6, line 66, to col. 7, line 6), describes a multi-colored LED light source consisting of either LED die or discrete (encapsulated) LEDs connected to a light fiber. This LED light source is then projected onto a grating to spread the wavelength of the LED so that a higher resolution (smaller bandwidth of radiation) can be created than is possible when using the LED by itself. This VERY narrow band wavelength is

Attorney Docket (11.015011 CON)

then reflected from an object or passed through an object to measure its reflection or absorbance at that particular narrow band wavelength. Keranen is basically describing the use of a solid state light to substitute for the typical broad spectrum white light source. The emphasis is on the solid state...a means of optically separating the color into very narrow bands as used in a spectrometer or photometer is still required. Keranen teaches that a single LED by itself cannot be used as a light source, since its emission spectrum is too broad for use in a spectrometer or photometer. Again, a subdivision of the LED spectrum is required in order to be useful as a light source for a spectrometer or photometer. In Keranen (both its specification and its claims), an "optical means" for further subdividing the spectrum for the LED is always required. Keranen specifically describes the use of a grating to allow more narrow bands of light to be extracted by bounding the light off or through a grating, and then using a mechanical "slit" to select the narrow bit of color they need.

In sum, the apparatus disclosed and described in Miller and Keranen (referenced in Miller) require bands of light that are far more narrow than is provided by standard LED die, and which therefore requires the use of a grating or other bandwidth filter, which is specifically excluded from the scope of claims 16-25, 28 and 37 of the present application.

Respectfully submitted,
Vista IP Law Group LLP

Dated: May 25, 2007

By:



David T. Burse
Reg. No. 37,104

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